

BEFORE THE ETHICS COMMISSION FOR THE STATE OF TENNESSEE  
AT NASHVILLE

IN RE: JEFFERY HANKINS,

Respondent.

No. 2008-70A

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ORDER DEFERRING TO AUTOMATIC STAY

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This matter came on to be heard by the Tennessee Ethics Commission ("Commission") on December 11, 2008, at its regularly scheduled meeting, upon presentation by staff of documentation in the file and a written statement from Respondent. Upon due consideration, the Commission finds and concludes as follows:

FINDINGS OF FACT

1. Duty to File. Respondent held the local public office of Constable for Union County in 2008 and thus was required to file a Disclosure of Interests Statement ("Statement") as required by Tenn. Code Ann. §§ 8-50-501 and 8-50-502. This Statement was due to be filed no later than January 31, 2008.
2. Warning letter. In June, 2008, the Commission sent Respondent a warning letter regarding the failure to file.
3. Class 1 Assessment letter. On July 14, 2008, Respondent received by certified mail, return receipt requested, an assessment letter setting forth the factual basis of the violation, the maximum penalty, and the date a response to the letter had to be filed. The letter also stated the Commission intended to consider, at its August 26, 2008 meeting, assessment of Class 1 civil penalties for failure to timely file a Statement. The letter set forth the date, place, and time of the meeting, and informed Respondent of his opportunity to participate in an informal show cause proceeding at the meeting, either by appearing personally or by submitting a sworn statement and documents.
4. Class 1 offense. Respondent did not respond to the class 1 assessment letter. At its meeting of August 26, 2008, the Commission found that Respondent had committed a class 1 offense by failing to file a Statement on time, and that the maximum penalty of seven hundred fifty dollars (\$750) should be imposed pursuant to Tenn. Code Ann. § 3-6-205(a)(1). A conditional order to this effect was issued on September 10, 2008, and

received by Respondent by certified mail, return receipt requested, on September 13, 2008.

5. Class 2 assessment letter. On November 15, 2008, Respondent received by certified mail, return receipt requested, a notice setting forth the Commission's intent to consider assessment of a Class 2 civil penalty up to ten thousand dollars (\$10,000) during its December 11, 2008 meeting for failure to file a Statement within thirty-five (35) days of receipt of an assessment letter. The assessment letter informed Respondent of the factual basis of the violation, the maximum penalty, and the date a response to the letter had to be filed. The letter set forth the date, place, and time of the meeting, and informed Respondent of his opportunity to participate in an informal show cause proceeding at the meeting, either by appearing personally or by submitting a sworn statement and documents.

6. Informal response to Class 2 assessment letter. Respondent filed the required statement and a written response on November 19, 2008. In his written response, Respondent requested a payment plan on the class 1 penalty, and related that he had "went th[rough] a [d]ivorce, [b]ankruptcy & foreclosure."

7. Bankruptcy. In light of the written response, Commissioner Knight researched bankruptcy filings online and verified that Respondent apparently filed a bankruptcy petition on August 22, 2008.

#### CONCLUSIONS OF LAW

Respondent's liability for the previously imposed class 1 civil penalty under the 2006 Governmental Ethics Reform Act ("Act") arose five (5) days after receipt of the class 1 assessment letter on July 14, 2008, and reached the maximum amount of seven hundred fifty dollars (\$750) thirty-five (35) days after receipt. Tenn. Code Ann. § 3-6-205(a)(1). Thirty-five (35) days after July 15, 2008, would be August 19, 2008, which is two (2) days before Respondent filed his bankruptcy petition.

The Act authorizes the Commission to administratively assess a civil penalty of not more than ten thousand dollars (\$10,000) if a local public official fails to file a Statement within thirty five (35) days of receipt of an assessment letter. Tenn. Code Ann. § 3-6-205 (a)(2). In light of the bankruptcy petition, the Commission defers consideration of any class 2 penalty, but authorizes the staff to seek the assistance of the Attorney General and Reporter in filing a proof of claim for the seven hundred fifty dollar (\$750) penalty.

#### ORDER

It is therefore ORDERED that further action on assessment of a class 2 civil penalty against Jeffery Hankins is deferred in light of the pending bankruptcy.

It is further ORDERED that the Executive Director shall issue this order for the Commission and file it in the Commission's offices.

It is further ORDERED that the Executive Director shall cause a copy of this order to be provided to the Respondent, by either personal service, certified mail return receipt requested, or overnight delivery.

It is further ORDERED that the Executive Director or designee will contact the Attorney General's Office with regard to filing a proof of claim for the previously imposed class 1 civil penalty of seven hundred fifty dollars (\$750).

SO ORDERED.

Issued this 29<sup>th</sup> day of December, 2008

TENNESSEE ETHICS COMMISSION

By: \_\_\_\_\_

Bruce A. Androphy,  
Executive Director